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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,937	10/21/2003	Luciano A. Gonzales	054034-1US (34111-0489)	4058
570	7590	03/15/2005	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P.			CINTINS, IVARS C	
ONE COMMERCE SQUARE			ART UNIT	
2005 MARKET STREET, SUITE 2200			PAPER NUMBER	
PHILADELPHIA, PA 19103-7013			1724	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,937

Applicant(s)

GONZALES ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4, 6-8, 13, 14, 19-21 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The terms "other materials" (claim 2, line 3; claim 13, line 3; claim 19, line 3; and claim 31, lines 2-3) and "other solids" (claim 3, line 3; claim 14, line 3; claim 19, line 6; and claim 31, line 5) are vague, and indefinite as to the limitations intended. Also, the trademarks recited in claims 2, 3, 13, 14, 19 and 31 are deemed to be somewhat indefinite because the formula or characteristics of a product may change from time to time, and yet it may continue to be sold under the same trademark. See M.P.E.P. § 608.01(v). Furthermore, the term "said layer of fire retardant material" (claim 6, line 3) lacks antecedent basis in the claims, and is hence indefinite. Applicant is advised that an amendment changing the dependency of claim 6, from claim 1 to claim 5, would overcome this portion of the rejection. Claims 4, 7, 8, 20 and 21 depend from indefinite claims, and are therefore themselves indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9, 10, 12-14 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall et al. (U.S. Patent No. 4,172,031; hereinafter "Hall"). The reference discloses an oil containment system comprising a support structure defining a plurality of cells (see Fig. 1), a

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layer of oil absorbing material and a layer of oil adsorbing material covering the absorbing material (see col. 3, lines 1-6); and this is all that is required by claims 1-4, 9, 10, 12-14 and 26.

Claims 1-3, 9, 10, 14 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ayers et al. (U.S. Patent No. 4,264,450). The reference discloses an oil containment system comprising a support structure defining a plurality of cells (see Fig. 1), a layer of oil absorbing material and a layer of oil adsorbing material covering the absorbing material (see col. 4, lines 1-3 and 61-63); and this is all that is required by claims 1-3, 9, 10, 14 and 26.

Claims 1-3 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hotta (U.S. Patent No. 4,189,310). The reference discloses an oil containment system comprising a layer of oil absorbing material and a layer of oil adsorbing material covering the absorbing material (see lines 11-15 of the abstract; col. 4, lines 22-27; and col. 6, lines 1-6), as required by claims 1-3 and 26.

Claims 9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilcox et al. (U.S. Patent No. 5,679,246; hereinafter "Wilcox"). The reference discloses an oil containment system comprising a support structure defining a plurality of cells (see Fig. 6), and an oil absorbing material of the type recited (see col. 2, lines 32-33).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10, 11, 14, 15, 17-20 and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox in view of Hall. Wilcox discloses the claimed invention (see col. 1,

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line 11; col. 2, lines 17-19, 29-33 and 37) with the exception of the recited oil adsorbent material. Applicant should note that the sand of this primary reference system (see col. 2, line 37) is deemed to be a fire retardant material, as required by claims 5-8, 15, 17, 20, 25 and 27-31. Hall discloses a similar oil containment system, and teaches utilizing an oil adsorbent in combination with an oil absorbent (col. 3, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Wilcox with the oil adsorbent material of Hall, in order to improve the oil removal capability of this primary reference system.

Claims 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox in view of Hall as applied above, and further in view of Rainer (U.S. Patent No. 3,674,683). The modified primary reference discloses the claimed invention with the exception of the recited crushed limestone. Rainer teaches utilizing limestone particles in combination with an oil adsorbent material such as polyvinyl chloride (see col. 3, lines 13-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include crushed limestone into the treatment materials of the modified primary reference (see col. 3, lines 40-41 of Hall), as suggested by Rainer, in order to obtain the advantages disclosed by this additional reference for the system of the modified primary reference.

Cavalieri (U.S. Patent No. 3,565,257) discloses an oil separator comprising a plurality of oil sorbent layers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at (571) 272-1166.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
March 10, 2005